Sex, Lies, and Philosophy

A crash test for Kantian ethics

"...not that you lied to me, but that I no longer believe you."
~ Friedrich Nietzsche, *Beyond Good and Evil*

"For the value of life, in so far as it consists of the enjoyment we get from people, is vastly overrated."
~ wrote Immanuel Kant to Maria von Herbert.

"If you want to have love in your life, you'd better be prepared to tell some lies and to believe some lies."
~ Clancy Martin

Is telling the truth always good? Is lying always bad? Is there something in between, something not quite good but still permissible? Do circumstances matter? Does the relationship between the liar and the lied to matter?

We will ask whether we have a duty not to lie in *all* circumstances? Kant was especially concerned with this question as were, and are, his critics.[1] He is, in fact, hardly alone among philosophers in taking this hard line stance. We will take it for granted that *generally* it is wrong to tell falsehoods—all moral theories agree about that. But some ethical theories allow for principled exceptions and some do not. We will focus on the most influential of the latter theories, Kantianism or deontology,[2] and specifically on one of its most controversial fallouts: that lying is *always* morally impermissible.

Kant and lying

Kantianism in its purest form prohibits the telling of falsehoods by one rationally autonomous entity to another *categorically*. It does so because of the disrespect the act shows to what is deemed the highest and most respect-worthy aspect of a rationally autonomous being. To be autonomous is to be capable of making reason-informed decisions and acting on them, thus "owning" them or taking responsibility for them. To treat someone so capable with respect entails giving them truthful information so that they can then act fully aware of what they are

1. Kant invited the question in his famous murderer-at-the-door example: are we morally obligated to tell the murderer the location of his intended victim? See Immanuel Kant, "On A Supposed Right to Lie from Altruistic Motives," in references below.
2. The reason for this focus on deontological as opposed to consequentialist ethics is that the latter is relatively poor in the psychological assumptions it makes about the nature of agents. There are attempts to compensate but it is a major strike against such theories that they are inadequate to the task of making the kind of fine-grained distinctions that are possible in more phenomenologically articulated theories like deontology. Being poor in assumptions is only a virtue for a theory if it covers the territory.

doing and why.

To lie to such a being is to rob them of the wherewithal to exercise that ability. The liar is essentially taking control of his or her lie's recipient's actions, pulling the agent's strings, as it were, essentially preempting their ability to act responsibly. ("Acting responsibly" here means not to act in any pre-determined way but to act so that anyone, knowing what they agent knew, may judge the agent had reasons for acting as they did.)

This preemption is the worst thing one rationally autonomous agent (as such) might do to another. *It is the essence of immorality for a Kantian.*

Behind that conclusion is a metaphysics. It goes something like this: not all entities in the universe are moral participants. Inanimate objects are not. Living things with demonstrable interests such as plants and animals arguably are to some degree[3] but not as full participants. They might be *passive* moral actors in the sense that *full* moral actors such as adult rational humans may have *conditional* duties to promote their well-being, conditional on some preservation or enhancement of their own dignity as rational beings. But there can be no reciprocal duties with passive moral actors or patients. Such moral *patients* do not owe anything back. Only fully rational autonomous *agents* have *unconditional* duties to treat each other in respectful ways. This is because respecting rational agency is what Kantian ethics is all about. Such rationally-enabled entities are distinct from all other natural entities. Full on morality applies *only* to them.

Lying prevents the very possibility of morality happening between two rational agents.

What is a lie?

But what exactly constitutes lying? Does it mean we are obligated to tell the truth, even the whole truth, to others? (Assuming we know it and, if we don't, are we under some obligation to find it out in order to tell it?) Might telling the truth be *too much* to ask of us in some circumstances? What are those circumstances? Or is it rather *who* we are, not quite circumstance, that ultimately sets limits on what is permissible?

3. There are Kant-inspired ways of extending moral regard to other living things beyond patient-status to lesser degrees of agency . Christine Korsgaard and Tom Regan, for example, offer such arguments. Kant himself did not.

Agent-centered moral theories like deontology tend to interpret the act of lying as one with the *intent* to deceive. This is not the same as *not* telling the truth. I may do any number of things that do not convey the truth but are not intended to deceive (e.g., act in a play). Among them: I may choose to *withhold* part of the truth or even the whole of it without saying anything positive about what the truth is. Perhaps I am aware of how you might take it, perhaps not; but whichever, I am not making false declarations. We call this *reticence*. Is reticence just as bad as lying? *It might be*.

Are some questions as immoral as some answers?

An answer responds to a question. If some answers can be immoral for lack of respecting the rational dignity of the inquirer, may some questions fail to be ethical for a corresponding lack of proper regard for the inquiree? Or if not, why not? Since it is supposed to be all about *respect* for a Kantian...

Reticence seemes to be morally *permissible* for Kant. In fact, it seems to act as his escape from certain dilemmas. Kant scholar J. E. Mahon thinks that there is a moral difference between reticence and lying. Other philosophers such as Rae Langton[4] think the distinction is overblown or in the end morally irrelevant. She suggests that at least in some contexts to appeal to that distinction to excuse less than full disclosure is disingenuous, and disingenuousness can be tantamount to lying. I will argue that the distinction may or not be relevant. Reticence may not be a moral option in some situations. Just when you need a moral way out of a Kantian dilemma it may fail. It will depend on what is at stake, which, in turn, will depend on the nature of the relationship between between the liar and lied to, which in turn may be affected by the kinds of beings they are, by a change in their metaphysics.

Love and lies

J.E. Mahon writes in response to Rae Langton's paper, "Duty and Desolation":

> *We shall argue that there is a principled distinction to be drawn between lies and reticence, and that Kant provides an argument for such a distinction: lying is necessarily deceptive, whereas reticence is not necessarily deceptive. We shall also argue that, far from having had a duty to lie in her circumstances, Herbert had a duty not to lie—something that she herself accepted.* [5]

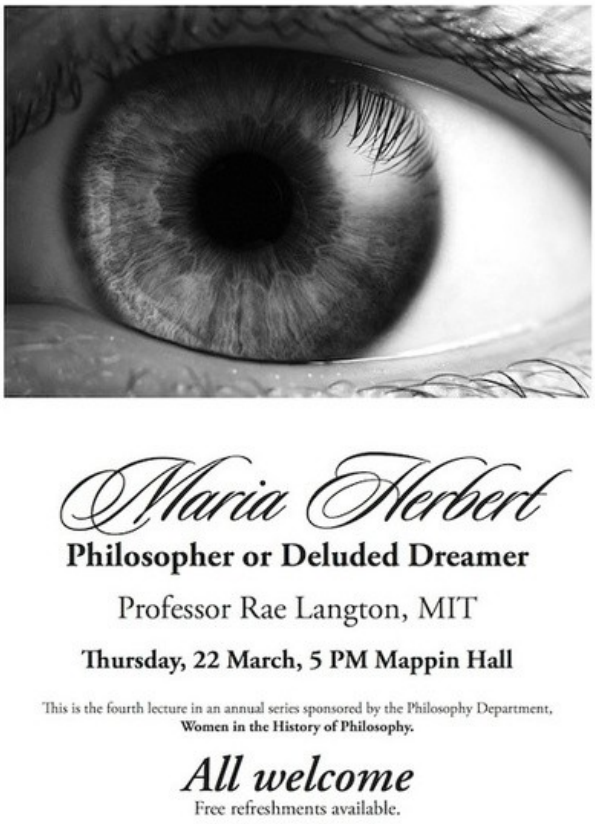
Here is the story of Maria von Herbert and Immanuel Kant, ages 22 and 67—respectively, at the

4. *Philosophy*, Vol. 67, No. 262 (Oct., 1992), pp. 481-505.
5. J.E. Mahon, "Kant and Maria von Herbert: Reticence vs. Deception," *Philosophy* 81 2006, pp. 417-444.

time of their first correspondence:

Herbert and her brother were young devotees of Kant's philosophy. They held a philosophy salon (an early term for "meetup") in their native Austria to engage in group study and discussion of the work of the then cutting-edge philosopher Immanuel Kant.

In 1791 Maria von Herbert wrote[6] Kant about a lie she had told (or implied), her subsequent admission to the recipient, and the aftermath. She knew well she should not have lied in the first place. She wanted to know whether she really did the right thing in finally opening up to her fiance concerning a lie (or wilful misunderstanding) about her virginity. Her fiance broke off the engagement and she was devastated. She fell into a deep depression from which she had not recovered. She knew from her close study of Kant that she was wrong to have deceived her fiance. By leading him to believe she was a virgin when she was not, she effectively showed the gravest disrespect for him. Kant responded, intending encouragement, by saying she did the best she could do, *after the fact*, to right the wrong she did, and no doubt, *as she well knew*, it *was* a wrong. Now she could only hope that her fiance would forgive her, but he could not be morally impugned if he didn't. He was, after all, wronged. And, in any case, time would help her to recover from her devastation and carry on. And, by the way, if her fiance didn't forgive her, then maybe he wasn't such a good catch after all...


Maria Herbert
Philosopher or Deluded Dreamer
Professor Rae Langton, MIT
Thursday, 22 March, 5 PM Mappin Hall
This is the fourth lecture in an annual series sponsored by the Philosophy Department,
Women in the History of Philosophy.
All welcome
Free refreshments available.

The theory behind Kant's grandfatherly advice—or at least the *morality* of it—was excruciatingly spelled out in his treatises on ethics, which he commended Herbert for knowing well. The next best thing to not lying is to own up to having done it, carry on more wisely, and hope for the best in the consequences for oneself.

Herbert wrote back hinting that she found Kant's advice somewhat lacking and proceeds to describe a situation that is difficult to square with his doctrine. She found it so because as time

6. The letters as they survive are quoted in full in Rae Langton, "Duty and Desolation," *Philosophy*, Vol. 67, No. 262 (Oct., 1992), pp. 481-505.

passed she discovered that the thrill of being moral—when done as Kant prescribed—had become *too easy*. She had lost the feeling so necessary to a Kantian: that the struggle, the challenge, to do the right thing was *supposed to be hard*. It was *supposed to be* a contest of reason against very unruly human impulses with the triumph of reason in the end. The suffering in the struggle to be moral was essential feedback that you were doing the *right* thing. But such impulses had abandoned her entirely. Her depression was not lifting, it was deepening as the years went by. It was causing her to lose interest in anything to do with being alive. It was not just that she could no longer feel joy in being alive or hope for a future, it was that *all the colors of feeling* had been sapped from her: no sadness, anger, loss or even frustration, either. She had become a bystander to the life around her. It had become a piece a cake to do the right thing. But she carried on in every way with her life because, on Kantian terms, there was no other option open to her, living was her *duty*, now—and yes, it was true her ex-fiance *did* forgive[7] her and he *remained* her friend. But the urgency and significance of that moment of her life had passed, she felt, irretrievably.

"It is easy to do the right thing when you just don't care…"

She virtually put it in so many words to Kant in her second letter.

The caring she had in mind was *not* the quiet ease of accomplished virtue *à la* Aristotle, which Kant had taken pains to downgrade. Our morality is not owing to the effort in making ourselves into moral automatons, do-gooders from habit.

And it was definitely *not* consequentialist: a direct path to happiness, per se, anyone's in particular, let alone that of the greatest number.

Von Herbert took Kant at his word, that in the end all that mattered was the one peculiar liability we possess to be awed by the dignity and singularity of being a rational being. In a community of such beings, we are made made worthy by the respect we show each other. Lying is not consistent with respect, *period*. Nor, in some relationships, is anything that *could pass for* lying, as we shall see...

So, she felt the weight of having wronged her fiance, the last person she wanted to wrong. She came around to confessing to him, knowing full well the likely consequences of the confession in her milieu. She would lose him in the way she wanted him, not

7. Whatever that means. It turns out that the concept of "forgiveness" is shot through with incoherence and unintelligibility. Hear J. Allais on forgiveness and R. R. Smith on J. Derrida also on forgiveness.

merely as a friend.

She did her best to explain the delicate matter to Kant. Kant read, considered and defended her actions in the wake of her wrong. She did the right thing, he confirmed. It was painful, yes, but morality is that way because it is a stricture on our nature. Human nature, Kant assumes, is *not* inherently moral.

We should comment here on a contemporary reaction to von Herbert's situation. It can be said, of course, that her situation was peculiar to her time and place, that respectable men no longer require of respectable women that their virginity be intact before forming serious intimate relationships with them. Or if a benighted man does, we are armed now with all manner of feminist retorts: the nerve, the double-standard, and the like... And that no young woman, except perhaps the most sheltered, emotionally or mentally compromised, or unworldly, would dive into deep depression because her boyfriend dumped her for this reason...

But that would be to miss the point. You can substitute some other sensitivity—rational or not—that obsesses us today and we can generate a case just like Herbert's: past exposure to or infection with STDs, a family history of certain diseases or proclivities or connections or associations, sexual orientations or sexual transformations, even past voting records, etc. Advances in genetic screening are dramatically increasing the amount of "sensitive" information to be reticent about. Suppose a potential employer wants to know about your family medical history and, though you are perfectly healthy now, suppose further there is a debilitating disease in your family which there is a good chance you will get mid-life… The day we stop having sensitive secrets is the day it is all over for us as individuals in a more normative sense than as mere constellations of molecules. There is a lot of talk these days about a supposed "right to privacy." What is the moral basis for such a right? Kant pretends to give it: we need some elbow room in which to live, to have flaws, to fully exercise our will and make mistakes without having it all paraded for public consumption. But can this right be trumped?

Many women no doubt, even in Maria von Herbert's time, lied when asked the question her fiance asked and thought little of it. They may even have felt justified. "Ask me an immoral question and I'll give you an immoral answer," they might have said to themselves. Herbert was that special case of someone who took her morality seriously… maybe not Kant's theory of it, but nevertheless she wanted to do the *real* right thing not merely according to what someone, even a—perceived by her—moral authority, like Kant, might say, but the *really* right thing—if there was one.

...

Maria von Herbert continued with essentially "the epilogue" of her life for another nine years—dead at heart, as it was, as though to prove the point that not everyone gets over these things, and

amazed that others could be so sanguine about living theirs...

Then, having had enough, she drowned herself.[8]

To sharpen Herbert's predicament: Kant was adamantly against suicide. Suicide is self-murder. It is wrong and to the same degree as murder because of the disrespect it shows the fact of our being the extraordinarily dignified and precious creatures we are, uniquely endowed with reason. Whatever woes beset us, to succumb to suffering, to allow it to cloud your decisions is no different from wasting one's life in sensual pleasure—as any animal might. But an animal has an excuse, rational adults do not. We are not the puppets of the whims of nature whether interior or exterior to us.

Herbert—seemingly as true a believer as Kant's theory ever had—was caught between a hard place and something so hard it would turn stone to powder, the proverbial canary in the Kantian coal mine, a first hint that something might be wrong with his moral theory. But I do not criticize here from outside that theory. I suggest that there was something wrong with it internally.

…

Is Kant right? That there really are no limits to the truths, asked about, we might tell? When, for instance, does a question itself imply disrespect for the inviolability of our personal dignity, centered on rational autonomy, which supposedly Kantian ethics is so bent on protecting? Why would a question about whether a woman has shared her body in the past with someone else be a question that a man has a right to a truthful answer about? When do we *acquire the right* to truthful answers?[9]

Perhaps we only acquire the right to unmitigated truth when we become committed to a special relationship with the target of the question? But that would have to be a striking relationship because ordinarily we do not escape the demands of morality in relationships, far from it, it's because we are members of a rationally-enabled community that we need morality at all. Either that or morality itself is reconceived in some relationships. Clearly not all relationships can bend ethics to their liking. What conditions are we talking about?

Or is it, as Kant suggests, that we *do not acquire* a right to truthful answers but we come *already*

8. Her brother ended his life, as well, a couple of years afterwards. We know much less about his story. It was Maria who wrote the great philosopher and who planted a seed of doubt concerning one of the most important moral infrastructures in Western intellectual history. Kant himself (perhaps) though didn't get it.
9. What about thoughts never acted on that one may have had? Remember, for Kant, *it's the thought that counts:* a murder is not evil merely because of its consequences to the victim or anyone else but because of the evidence it offers of the evil *intent* of the murderer. In some legal sense, we may be innocent until proven guilty. *Not so morally*. You might say *we start out guilty merely because of our imagination and our freedom to use it*. Our lives thus become an opportunity to prove ourselves innocent—or at least worthy of being forgiven. But see note 7 on "forgiveness."

so equipped merely in virtue of being rationally autonomous beings?

But as Mahon suggests we don't come equipped with a right to unmitigated truth. We can ask after the truth on some matter and be met with silence. And that's *not* wrong. Kant says so. Mahon reminds us. We cannot *require* of others candor. Silence, reticence, no comment, etc. are still *moral ways out of* flaunting the whole truth. Only to make a rationally autonomous being the recipient of a false declaration is not permitted.

The point here is: do we owe others the truth on pain of disrespect to them at whatever cost to ourselves and our ends?[10] Kant and Mahon thought not. There is an escape route: *reticence.*

So, Mahon's lesson is that Herbert *could* have just stayed mum when asked whether her sexual resumé was pure as driven snow. She had that as a Kantian right. She should not have lied to her fiance, but she *could* have told him, in effect, it was none of his business, and thereby upheld her Kantian duty not to deceive.

But Herbert was caught up in the fear and light-headedness of romantic love. The thought of losing her beloved because she had violated a sexual norm—which respectable people in her milieu held in solemn regard and which she could not be surprised if her fiance did as well—caused her to stumble onto the path of deception, much to her partially Kant-inspired regret, and subsequent humiliation. That's the usual account given of what doomed her.

...

I submit that deep down Herbert did *feel* she did wrong in lying to her fiance but *not* because it was a violation of a Kantian demand. That was not the true cause of her *felt* wrong. The true cause was that she was untrue to the spirit of honoring her own feelings about what she should have done. She failed to act morally *and was feeling it* but *not* because she violated a social norm and *not* because of a Kantian guilt-trip. One may very well admire the beauty and awesomeness of a Kantian Kingdom of Ends—of a community of semi-divine, rationally decked out petty autonomizers—from the stands without losing the sense that the ecstasies and agonies of these ideal true players on the field are not, except vicariously, yours. Herbert rightfully deeply admired the *aesthetics* of the Kantian moral game. It might be beautiful to behold a moral world in which all rational entities regarded each other that way. But her betrayal of these imaginary rules for an imaginary world is not what hit her so hard. Yes, she played the Kantian moral game badly despite her expertise in its theory, but that wasn't what crushed her spirit then finally killed

10. We might also think of what we owe other entities, non-individuals such as governments, employers, society, in general. Do we have moral obligations to *corporate* entities? I think the answers are different even on Kantian grounds. Can such corporate entities be held *responsible*? To the extent they can't, to that extent we may not owe them moral respect. In effect, *precisely* because some entities are so powerful that they can *enforce* their demands on us—entities such as public governments and private corporations—we do *not* owe them *moral* respect. Morality is what we owe the relative powerless. Another difference between legality and morality.

her.

She realized this when she asked Kant about his own experiences as a human being in love. She wanted to know this because she wanted to know what kind of human being she had entrusted her intellectual devotion to. Kant was less than forthcoming. He essentially reacted as if to show her by example how presumably she should have acted earlier when probed by her fiance: “it is really none of your business,” more or less. Kant didn’t lie, of course.[11]

“None of your business”

When is something none of our business?

I think what she learned—or should have learned—from her correspondence with Kant was that whatever his moral philosophy had to offer it was beside the point as far as her predicament was concerned.

Here’s the deal: morality is all about respecting rational autonomy—presumably the rational autonomy of individuals who are members of a larger community of such beings. Among the relations that subtend among individuals in that community are a great many that can be sustained only by respecting the *separateness or individuality* of the other with only his own or her moral record to account for. Kant’s moral theory acquits itself admirably here. It has these relations pretty well covered with its concern for impartiality and universality. Morality *can* be formulated in terms of rights and duties.

But some relations of great normative significance do not fit this picture of right relations. Not all specifically *human* relations with their animality intact can *even in theory*[12] be brought under the Kantian picture.

Behind Kant’s morality is a plausible assumption that we are separate independent autonomous beings who may choose or not choose to enter into agreements with other such beings. Good information is necessary to wise choices. A respectful recognition that we are rationally autonomous beings makes sense if we conceive of ourselves in the abstract Kantian realm of ends *as discrete moral entities.*

But what does Kantian ethics have to say about intimate relations where respect for the other clashes with interests that are no longer discrete? The ideal intimate relationship is a *new* entity altogether, no longer best conceived as a juxtaposition of two discrete ones. What application do

11. There is little record of Kant having anything to say to this question. He is not known to have had any intimate adult relationship with anyone. The only person he writes of with great emotion was his mother whom he credits with having inspired deep and endless curiosity in him.
12. Needless to say, the theory places serious and perhaps necessary demands on parts of our animality as it is.

moral pronouncements developed for the discrete case have with this new union, not intersection, of entities?

When two people form a serious relationship, they are deliberately taking themselves out of the sea of discrete individuals with only contractual or utilitarian interests in each other. That sea is the Kantian Kingdom of Ends, a world where *ideally* we should all treat each other like gods, capable of laying down the law for each of us by affirming a principle, the moral law, that binds us all because we are rational. But due to our *animality*[13] there are bonds stronger still than being privileged with rational capability.

I think Maria von Herbert ran up against a dead spot for Kantian ethics. Kant's advice rung hollow to her. It was the advice of someone who—however inspiring his character and intellect—suffered a devastating blindness to an important realm of human experience. His blithe advice left her alone with nothing else to fall back on. Moreover, wasn't Kant a little arbitrary in the concessions he was willing to make our non-ideal existence? The ones Mahon points to that make it *permissible* to be reticent? *Kant cannot have it both ways: he cannot bow to our humanity when it comes to saying we may be excused sometimes for being reticent and at the same time ignore that we, unlike gods, do aspire to being more than merely discrete entities: that we are vulnerable to giving that up for love.* That is a serious philosophical charge which Maria von Herbert's story wrings out of one of the most important moral theories. If concessions to our animal situation can make reticence ok in some circumstances—*out of respect for ourselves*, why can't lying also partake of such moral leniency?

We know what might motivate leniency in some cases, and we also can imagine what might cause a Kantian to fear it: principled exceptions vastly complicate things. The door to casuistry is left unsecured. We might do better to backtrack and re-envision the metaphysics of morals that Kant populated exclusively with individuals.

If there was a right answer to Herbert's predicament, it was not going to come from Kant. The harm done by this lie was not to a person or a principle but to a *relationship*. The fact that Kant's theory to which she had been devoted had nothing to say about this, I submit, is what further chilled Maria von Herbert's heart.

13. The term "animality" philosophers—nowadays, in a naturalistic climate—use the way "humanity" was once used. We seem no longer to be contrasting ourselves with animals but with robots.

I will leave it to another occasion to spell out what this means to Kantian and moral theory, in general.

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— Victor Muñoz, 2/7/15